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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

EXAMINER
CHANDLER, SARA M

ART UNIT	PAPER NUMBER
3693	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/22/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

	Application No.	Applicant(s)
Office Action Summary	10/010,067	SOLOMON, NEAL
	Examiner	Art Unit	
	Sara Chandler	3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>04 December 2006</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-6,8-12,14,16,17 and 19-38</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-6,8-12,14,16,17 and 19-38</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

This Office Action is responsive to Applicant's arguments and request for

reconsideration of application 10/010,067 (12/03/01) filed on 12/04/06.

Information Disclosure Statement

The information disclosure statement filed 12/03/2001 fails to comply with 37

CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document;

each non-patent literature publication or that portion which caused it to be listed; and all

other information or that portion which caused it to be listed. It has been placed in the

application file, but the information referred to therein has not been considered.

Applicant failed to submit a legible copy of each cited foreign patent document;

and each cited non-patent literature publication or that portion which caused it to be

listed.

Oath/Declaration

The declaration is objected to. It does not identify the mailing address of each
inventor. A mailing address is an address at which an inventor customarily
receives his or her mail and may be either a home or business address. The
mailing address should include the ZIP Code designation. The mailing address
may be provided in an application data sheet or a supplemental oath or
declaration. See 37 CFR 1.63(c) and 37 CFR 1.76. Appropriate correction is
required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set
forth in section 102 of this title, if the differences between the subject matter sought to be patented and
the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains.
Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1,2 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Davies, US Pat. No. 5,931,907.

Re Claim 1: Davies discloses a system for searching data in a distributed computing

network of sellers' commercial databases, the system comprising:

a distributed computing network comprising a plurality of sellers' commercial

databases, (Davies, abstract; col. 1, lines 28-40 and 51-63; col. 2, lines 9-13),

at least one buyer's node adapted to translate a buyer's first query (Davies, abstract;

col. 1, lines 28-40 "user can access information"; col. 1, lines 60-63 "behalf of a user"),

a commercial search agent adapted to receive the buyer's first query regarding a

selected item, said item one of a product or service, said commercial search agent in

communication with said plurality of sellers' commercial databases, and said

commercial search agent further for searching said plurality of sellers' commercial

databases for information related to said selected item (Davies, abstract; col. 1, lines

28-40; col. 1, lines 51-63).

at least one intelligent agent in communication with said commercial agent (Davies, abstract; col. 1, lines 28-40; col.1 lines 51-63 see refs. to "intelligent page store", "intelligent software agents"; Davies, col. 1, lines 61-63 "software agents are used to store, retrieve, summarise and inform other agents about information found"; col. 2, lines 27-29), said intelligent agent for receiving said information related to said selected item (Davies, abstract; col. 1, lines 28-40; col.1 lines 51-63 see refs. to "intelligent page store", "intelligent software agents"; Davies, col. 1, lines 61-63 "software agents are used to store, retrieve, summarise and inform other agents about information found"; col. 2, lines 27-29).

Davies fails to explicitly disclose:

wherein said intelligent agent is an intelligent negotiation agent; and wherein said intelligent negotiation agent is for receiving said information related to said selected item and for engaging in a negotiation for procurement of said selected item.

Official notice is taken that it is old and well-known for intelligent agents to be used to carry out an assigned task. For example, intelligent agents are often used to retrieve and deliver information.

As documentary evidence, see:

Bigus, US Pat. No. 6,401,080 – intelligent negotiation agents (see abstract, col. 1, lines 25-30; col. 2, lines 32-42; col. 3, lines 43- 54; col. 4, lines 24-40; col. 8, line 24+- col. 18, line 34).;

Carter, US Pat. No. 6,574,607 – intelligent negotiation agents (see abstract, col. 2, lines 39-63; col. 3, lines 14-47).

It would have been obvious to one of ordinary skill in the art at time of the invention to modify the system of Davies. One would have been motivated to maximize profits by making transactions easier and making the negotiation process more accessible.

Re Claim 2: Davies discloses a system, wherein: said commercial search agent comprises an intelligent agent (Davies, abstract; col. 1, lines 28-40; col.1 lines 51-63 see refs. to "intelligent page store", "intelligent software agents").

Claims 4,5,8, 9 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davies, US Pat. No. 5,931,907 in view of Kleinberg, US Pat. No. 5,884,305.

Re Claim 8: Davies discloses a method for searching data in a distributed computing network of sellers' commercial databases, the method comprising:

receiving a buyer's first query regarding a selected item, (Davies, abstract; col. 1, lines 28-40 "user can access information"; col. 1, lines 60-63 "behalf of a user"), performing an automated search on a distributed computing network for information related to said selected item, said distributed computing network comprising a plurality of sellers' commercial databases, (Davies, abstract; col. 1, lines 28-40 and 51-63; col. 2, lines 9-13).

Davies fails to explicitly disclose receiving from at least one of said plurality of sellers' commercial databases a risk management option comprising at least one contract contingency authorizing a seller to pay a buyer a penalty if said seller elects to sell said selected item to another buyer.

Kleinberg discloses uses for data mining. In particular, Kleinberg discloses the applicability of data and data mining to sales transactions, advertising, inventory (Kleinberg, col. 1, lines 1-50).

Official Notice is taken that it is old and well-known for businesses to designate subject areas considered important for business. For example, companies often look at risk in financial transactions. The business may look at things such as historical records, characteristics of customers etc. to decide things such as the need for liability insurance, determining interest rates, deposits etc. For example, companies often create modules for promotional purposes a part of their marketing and advertising campaigns.

As documentary evidence, see:

Afzali-Ardakani, US Pat. No. 6,746,053- breach/violation contract (see col. 1, lines 37-46; col. 3, lines 1-10.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Davies by adopting the teachings of Kleinberg to provide a method further comprising:

One would have been motivated to maximize profits by making improvements to marketing and advertising efforts; or minimizing losses by more accurately estimating risks.

Re Claim 9: Davies discloses a method, wherein:

said performing an automated search is accomplished by invoking an intelligent

commercial search agent (Davies, abstract; col. 1, lines 28-40; col.1 lines 51-63 see

refs. to "intelligent page store", "intelligent software agents").

Re Claims 4, 5: Davies fails to explicitly disclose a system, further comprising:

at least one of said plurality of sellers' databases includes at least one promotion

module; or at least one of said plurality of sellers' databases includes at least one risk

management option module. Kleinberg discloses uses for data mining. In particular,

Kleinberg discloses the applicability of data and data mining to sales transactions,

advertising, inventory (Kleinberg, col. 1, lines 1-50). Official Notice is taken that it is old

and well-known for businesses to have modules for subject areas considered important

for business. For example, companies often create modules to look at risk in financial

transactions. The business may look at historical records, characteristics of customers

etc to decide things such as the need for liability insurance, determining interest rates,

deposits etc. For example, companies often create modules for promotional purposes a

part of their marketing and advertising campaigns. It would have been obvious to one

of ordinary skill in the art at the time of the invention to modify the system of Davies by

adopting the teachings of Kleinberg to provide a system, further comprising: at least one

of said plurality of sellers' databases includes at least one promotion module; or at least

one of said plurality of sellers' databases includes at least one risk management option

module. One would have been motivated to maximize profits by making improvements

to marketing and advertising efforts; or minimizing losses by more accurately estimating

risks.

Re Claims 12: Davies fails to explicitly disclose a method, further comprising:

receiving from at least one of said plurality of sellers' commercial databases a

promotion.

Kleinberg discloses uses for data mining. In particular, Kleinberg discloses the

applicability of data and data mining to sales transactions, advertising, inventory

(Kleinberg, col. 1, lines 1-50).

Official Notice is taken that it is old and well-known for businesses to designate

subject areas considered important for business. For example, companies often look at

risk in financial transactions. The business may look at things such as historical

records, characteristics of customers etc. to decide things such as the need for liability

insurance, determining interest rates, deposits etc. For example, companies often

create modules for promotional purposes a part of their marketing and advertising

campaigns.

It would have been obvious to one of ordinary skill in the art at the time of the

invention to modify the method of Davies in view Kleinberg in order to provide a method,

further comprising: receiving from at least one of said plurality of sellers' commercial

databases a promotion. One would have been motivated to maximize profits by making

improvements to marketing and advertising efforts; or minimizing losses by more

accurately estimating risks.

Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Davies in view of Kleinberg as applied to claim 8 and further in view of Weiss, US

Pub. No. 2002/0062315.

Re Claim 10: Davies discloses a method, further comprising:

analyzing said data for generating a report thereon that most closely satisfies

said goal (Davies, col. 1, lines 61-63 "summarise and inform other agents about

information found"; col. 2, lines 27-29),

transmitting said report to said commercial search agent (Davies, col. 1, lines 61-63

"summarise and inform other agents about information found"; col. 2, lines 27-29).

Davies fails to explicitly disclose a method, further comprising mining data from said

plurality of sellers' commercial databases, receiving a goal (Weiss, abstract;

[0010][0011][0012]).

Weiss discloses a method, further comprising: mining data from said plurality of sellers'

commercial databases (Weiss, abstract; [0010][0011][0012]), receiving a goal (Weiss,

abstract; [0010][0011][0012]).

It would have been obvious to one of ordinary skill in the art at the time of the invention

to combine the teachings of Weiss to provide a method, further comprising:

mining data from said plurality of sellers' commercial databases, receiving a goal,

analyzing said data for generating a report thereon that most closely satisfies said goal,

transmitting said report to said commercial search agent. One would have been

motivated to use the report for record keeping; and to evaluate large amounts of data in

a easier to understand and more effective manner.

Re Claims 11: Davies discloses a method, wherein: there is an intelligent analytical

agent (Davies, abstract; col. 1, lines 28-40; col.1 lines 51-63 see refs. to "intelligent

page store", "intelligent software agents"). Davies fails to explicitly disclose a method,

wherein: said mining data is performed by an intelligent analytical agent. Weiss

discloses a method, wherein: said mining data is performed by an intelligent analytical agent (Weiss, abstract; [0010][0011][0012]). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Davies and Weiss to provide a method, wherein: said mining data is performed by an intelligent analytical agent. One would have been motivated to use the characteristics typical of intelligent agents such as carrying out tasks, retrieving and delivering information to obtain data from different sources.

Claims 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davies, US Pat. No. 5,931,907 in view of Weiss, US Pub. No. 2002/0062315.

Re Claim 3: Davies discloses a system, further comprising:

said analytical agent also for generating a report on said data that most closely meets a goal (Davies, col. 1, lines 61-63 "summarise and inform other agents about information found"; col. 2, lines 27-29),

said analytical agent in communication with said commercial search agent for transmission thereto of said report (Davies, col. 1, lines 61-63 "summarise and inform other agents about information found"; col. 2, lines 27-29).

Davies fails to explicitly disclose a system, further comprising:

at least one of a plurality of analytical agents for mining data related to said selected item from said plurality of sellers' databases.

Weiss discloses a system, further comprising:

at least one of a plurality of analytical agents for mining data related to said

selected item from said plurality of sellers' databases (Weiss, abstract;

[0010][0011][0012]),

It would have been obvious to one of ordinary skill in the art at the time of the invention

to combine the teachings of Davies and Weiss to provide a system, further

comprising: at least one of a plurality of analytical agents for mining data related to said

selected item from said plurality of sellers' databases, said analytical agent also for

generating a report on said data that most closely meets a goal, said analytical agent in

communication with said commercial search agent for transmission thereto of said

report. One would have been motivated to use the report for record keeping; and to

evaluate large amounts of data obtained from data mining in a easier to understand and

more effective manner.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Davies,

US Pat. No. 5,931,907 in view of Suarez, US Pat. No. 5,790,789.

Re Claim 6: Davies fails to explicitly disclose a system, wherein said distributed

computing network comprises a cooperative communications network having a plurality

of sellers' commercial databases, said cooperative communications network related to

said selected item. Suarez discloses a system, wherein said distributed computing

network comprises a cooperative communications network having a plurality of sellers'

commercial databases, said cooperative communications network related to said

selected item (Suarez, Figs. 1,4,6,10,11; col. 6, lines 27-29). It would have been

obvious to one of ordinary skill in the art at the time of the invention to modify the

system of Davies by adopting the teachings of Suarez to provide a system, wherein said

distributed computing network comprises a cooperative communications network having

a plurality of sellers' commercial databases, said cooperative communications network

related to said selected item. One would have been motivated by more efficient use of

information and faster access to information.

   Claims 14,16, 17, 19-25 and 26-38 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Moore, US Pat. No. 6,847,938.

Re Claim 14: Moore discloses a system for procurement that communicates over a

distributed network, the system comprising:

one or more memories for storing a list of individual product items and individual

service items (Moore, Fig. 1, claim 23),

an intelligent commercial search agent in communication with said one or more

memories (Moore, col. 7, lines 59-63; col. 8, lines 4-8), and

one or more seller showcase databases in communication with said commercial

search agent (Moore, col. 6, lines 64-66; col. 7, lines 18-35; col. 7, lines 59+ - col. 8, line

8),

wherein, when one or more of said seller showcase databases receives from

said commercial search agent a request to receive bids to sell a selected item specified

from said list, said one or more seller showcase databases submits that bid to said

commercial search agent (Moore, col. 6, lines 64-66; col. 7, lines 18-35; col. 7, lines 59+

- col. 8, line 8).

Moore fails to explicitly disclose a system, further comprising: an intelligent

analytical agent for mining data related to a selected item from said list, said mining

from at least one of a plurality of market databases.

Official Notice is taken that it is old and well-known to use intelligent agents to

carry out tasks such as retrieving and delivering information. to mine for data from

different sources.

As documentary evidence, see:

Aggarwal, US Pat. No. 6,349,309 – intelligent analytical agent, data mining (see

abstract, col. 1, lines 1-65);

Aggarwal, US Pat. No. 6,307,965 – intelligent analytical agent, data mining (see

abstract, col. 1, lines 1-65);

Chaudhuri, US Pat. No. 6,212,526 – intelligent analytical agent, data mining (see

col 1, lines 1-57; col. 7, line 13+ - col. 14, line 27); and

Bird, US Pat. No. 6,049,861 – intelligent analytical agent, data mining (see,

abstract, col. 4, line 13 – col. 11, line 43).

It would have been obvious to one of ordinary skill in the art at the time of the

invention to modify the teachings of Moore to provide a system, further comprising:

an intelligent agent for mining data related to a selected item from said

list, said mining from at least one of a plurality of market databases, said analytical

agent for generating a subset of data that most closely conforms to a set of

preprogrammed item parameters, and said analytical agent in communication with said

commercial search agent for providing thereto said subset of data. One would have

been motivated by the ability of intelligent agents to obtain information from different

sources.

Re Claim 16: A method for procurement using computers that communicate over a

distributed network, the method comprising:

receiving from one of a plurality of buyer's intelligent agents registered with a

cooperative communications network a request to receive bids to sell a selected item

specified from a list of individual product items and individual service items (Moore,

abstract, col. 5, lines 34+ - col. 6, line 2-network; col. 4, lines 25-29, "item or items they

wish to acquire"), and

receiving from at least one of a plurality of seller's intelligent agents registered

with a cooperative communications network an automated bid to sell said selected item,

said bid responsive to said request (Moore, abstract, col. 5, lines 34+ - col. 6, line 2 –

network; col. 4, lines 25-29 "item they wish to trade").

said request for bids including a set of item parameters (Moore, col. 4, lines 25-29; col.

6, lines 41-51 e.g., different parameters depending upon item).

Moore fails to explicitly disclose a method wherein said set includes: price,

quality or item features. Official Notice is taken that it is old and well-known to provide

users with product lists, order forms and search fields comprising any parameter

descriptive of the item.

As documentary evidence, see:

Wellman, US Pat. No. 6,952,682- item parameters (see col. 3, line 65+ - col. 4, line 12;

col. 4, lines 60-67; col. 5, line 60+ -col. 6, line 24;

Koopersmith, US Pub. No. 2001/0042002 – item parameters (see, [0023] [0111]).

It would have been obvious to one of ordinary skill in the art at the time of the

invention to modify the teachings of Moore to provide a method wherein said set

includes: price, quality or item features   One would have been motivated to provide

information so that customers can select desired products, compare comparable or

competing items, check availability of items etc.

Re Claim 17 and 19: Moore discloses a method, further comprising:

said request for bids including a set of item parameters (Moore, col. 4, lines 25-29; col.

6, lines 41-51 e.g., different parameters depending upon item). Moore fails to explicitly

disclose a method wherein said set includes: price or item features. Official Notice is

taken that it is old and well-known to provide users with product lists, order forms and

search fields comprising any parameter descriptive of the item. It would have been

obvious to one of ordinary skill in the art at the time of the invention to modify the

teachings of Moore to provide a method wherein said set includes: price or item

features   One would have been motivated to provide information so that customers can

select desired products, compare comparable or competing items, check availability of

items etc.

Re Claim 25: Moore discloses a method, wherein at least one of a group of sets of

information comprising product items and service items (Moore, col. 7, lines 20-

24,"data sorting techniques" can show sets, product items, service items). Moore fails

to explicitly disclose a method wherein: said at least one of a group of sets of

information comprises promotions. Official Notice is taken that it is old and well-known

to provide information regarding promotions, discounts and complimentary products and

services. It would have been obvious to one of ordinary skill in the art at the time of the

invention to modify the teaching of Moore to provide a method, wherein: said at al least

one of a group of sets of information comprises promotions. (Moore, col. 1, lines 42-47

ref. to advertising;. One would have been motivated to maximize buyer exposure to

products and services offered; and increase buyer demand.

Re Claim 38: Moore fails to explicitly disclose a system, wherein: said penalty

diminishes over time. (Moore, col. 4, line 63+ - col. 5, line 2). Official Notice is taken

that is old and well-known that as customers improve their transaction history and credit

over time, businesses reduce their penalty. It would have been obvious to one of

ordinary skill in the art at the time of the invention to modify the teachings of Moore to

provide a system, wherein: said penalty diminishes over time. One would have been

motivated by the long-term sustainability of the business customers. Business would be

concerned that customers would leave if the penalty was too high long term and

competitors to acquire the customer's business.

Re Claim 20: Moore discloses a method, wherein: said buyer's intelligent agent

comprises an intelligent commercial search agent for searching said plurality of seller's

intelligent agents for bids conforming to a set of preprogrammed item parameters

(Moore, col. 6, lines 64+ - col. 7, line 35).

Re Claim 21: Moore discloses a method, wherein: said item parameters include

transaction parameters (Moore, col. 6, lines 64+ - col. 7, line 35).

Re Claim 22: Moore discloses a method, further comprising:

a seller's analytical agent for receiving market data related to said selected item

from at least one of a plurality of seller databases, said seller's analytical agent

analyzing said market data for demand shaping opportunities based on a set of buyer

identifying data (Moore, col. 7, lines 59-63 - col.8, lines 4-8), and

ending said market data to Said seller's intelligent agent (Moore, col. 7, lines 59-63 -

col.8, lines 4-8).

Re Claim 23: Moore discloses a method, further comprising:

using said market data to create a seller's showcase database related to said

selected item, said showcase database comprising at least one of a group of sets of

information comprising product items and service items (Moore, col. 7, lines 20-24,"data

sorting techniques" can show sets, product items, service items).

Re Claim 24: Moore discloses a method, wherein: said sets of information are shaped

according to said buyer identifying data to maximize interest of said buyer (Moore, col.

7, lines 65+ - col. 8, line 4).

Re Claim 26: Moore discloses a method, wherein: said at least one at least one of a

group of sets of information includes a contract contingency authorizing a seller to pay a

buyer a penalty if said seller elects to sell said selected item to another buyer (Moore,

col. 4, lines 63+ - col. 5, line 2).

Re Claim 27: Moore discloses a system, wherein: said buyer's intelligent agent

comprises an intelligent commercial search agent for ranking said bids according to at

least one filter factor (Moore, col. 7, lines 20-24).

Re Claims 28,29,30,31,32,33,34,35 and 36: Moore discloses a system, wherein: said

at least one filter factor comprises: item price; item location; item niche; item availability;

includability in bundle purchase; accountability of seller;or past experience with seller

(Moore, col. 7, lines 20-24; col. 4, lines 55-57 e.g. criteria; col. 6, lines 41-52 e.g.

criteria; col. 7, lines 47-58 e.g. criteria).

Re Claim 37: Moore discloses a system, wherein:

said bids submitted by at least one of said seller showcase databases includes a

contract contingency authorizing a seller to pay a buyer a penalty if said seller elects to

sell said selected item to another buyer (Moore, col. 4, line 63+ - col. 5, line 2).

Response to Arguments

IDS

The problems with the IDS have not been corrected.

Oath/Declaration

The problems with the declaration have not been corrected.

103/Official Notice

In response to applicant's argument that there is no suggestion to combine the

references, the examiner recognizes that obviousness can only be established by

combining or modifying the teachings of the prior art to produce the claimed invention

where there is some teaching, suggestion, or motivation to do so found either in the

references themselves or in the knowledge generally available to one of ordinary skill in

the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re*

Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the suggestions

provided in the Office Action (0602/06) were either found in the references or were part

of the knowledge generally available to one of ordinary skill in the art.

Applicant argues the prior art fails to explicitly disclose: at least one intelligent

negotiation agent in communication with said commercial agent, said intelligent

negotiation agent for receiving said information related to said selected item and for

engaging in a negotiation for procurement of said selected item.

Applicant is making a intended use argument (i.e., "at least one intelligent

negotiation agent in communication with said commercial agent, said intelligent

negotiation agent for....."), what follows the statement of intended use (i.e., "for") does

not carry patentable weight. The claimed invention must result in a structural difference

between the claimed invention and the prior art in order to patentably distinguish the

claimed invention from the prior art. If the prior art structure is capable of performing the

intended use, then it meets the claim.

In the discussion supra and the Office Action (06/02/06) it was shown that Davies

discloses at least one intelligent agent in communication with said commercial agent.

Furthermore, Official Notice was taken that it was old and well-known for intelligent

agents to be used to carry out assigned tasks, such as negotiations.

As documentary evidence, see:

Bigus, US Pat. No. 6,401,080 – intelligent negotiation agents (see abstract, col. 1, lines

25-30; col. 2, lines 32-42; col. 3, lines 43- 54; col. 4, lines 24-40; col. 8, line 24+- col.

18, line 34).;

Carter, US Pat. No. 6,574,607 – intelligent negotiation agents (see abstract, col. 2, lines

39-63; col. 3, lines 14-47).

Thus, it would have been obvious to modify the intelligent agent of Davies supra

to provide an intelligent negotiation agent as claimed.

Applicant argues the prior art fails to explicitly disclose: receiving from at least one of

said plurality of sellers' commercial databases a risk management option comprising at

least one contract contingency authorizing a seller to pay a buyer a penalty if said seller

elects to sell said selected item to another buyer.

Applicant is making an argument regarding language that is optional. If "said

seller elects to sell said selected item to another buyer", then "receiving from at least

one of said plurality of sellers' commercial databases a risk management option

comprising at least one contract contingency authorizing a seller to pay a buyer a

penalty" occurs. The claim does not provide for what happens if the seller does not

elect to sell the selected item to another buyer. Giving the claim its broadest

reasonable interpretation, nothing occurs (See MPEP § 2111).

In the discussion supra and the Office Action (06/02/06) it was shown that Davies

in view of Kleinberg. Kleinberg disclosed the applicability of data mining to different

aspects of a business operations, such as the assessment and management of risk.

Risk associated with financial transactions is common in business operations because

breach of contract is problem common to areas of business such as trade and finance

and areas of law such as contract and commercial law.

As documentary evidence, see:

· Afzali-Ardakani, US Pat. No. 6,746,053- breach/violation contract (see col. 1,

lines 37-46; col. 3, lines 1-10.

Thus it would have been obvious to modify the teachings of Davies in view of

Kleinburg to provide a method further comprising: receiving from at least one of said

plurality of sellers' commercial databases a risk management option comprising at least

one contract contingency authorizing a seller to pay a buyer a penalty if said seller

elects to sell said selected item to another buyer.

Applicant argues the prior art fails to explicitly disclose: an intelligent analytical agent

for mining data related to a selected item from said list, said mining from at least one of

a plurality of market databases, said analytical agent for generating a subset of data

that most closely conforms to a set of preprogrammed item parameters, and said

analytical agent in communication with said commercial search agent for providing

thereto said subset of data.

Applicant is making a intended use argument (i.e., "an intelligent analytical agent

for....."), what follows the statement of intended use (i.e., "for") does not carry

patentable weight. The claimed invention must result in a structural difference between

the claimed invention and the prior art in order to patentably distinguish the claimed

invention from the prior art. If the prior art structure is capable of performing the

intended use, then it meets the claim.

In the discussion supra and the Office Action (06/02/06) it was shown that Moore discloses an intelligent analytical agent. Furthermore, Official Notice was taken that it was old and well-known that intelligent agents could be used to carry out tasks such as retrieving and delivering information and mining for data from different sources.

As documentary evidence, see:

Aggarwal, US Pat. No. 6,349,309 – intelligent analytical agent, data mining (see abstract, col. 1, lines 1-65);

Aggarwal, US Pat. No. 6,307,965 – intelligent analytical agent, data mining (see abstract, col. 1, lines 1-65);

Chaudhuri, US Pat. No. 6,212,526 – intelligent analytical agent, data mining (see col 1, lines 1-57; col. 7, line 13+ - col. 14, line 27); and

Bird, US Pat. No. 6,049,861 – intelligent analytical agent, data mining (see, abstract, col. 4, line 13 – col. 11, line 43).

Thus it would have been obvious to modify the intelligent analytical agent of Moore supra to further provide for mining data related to a selected item from said list, said mining from at least one of a plurality of market databases.

Applicant argues the prior art fails to explicitly disclose: receiving from one of a plurality of buyer's intelligent agents registered with a cooperative communications network a request to receive bids to sell a selected item specified from a list of individual product items and individual service items, said request for bids including a set of item parameters, said set including quality.

In the discussion supra and the Office Action (06/02/06) it was shown that Moore discloses receiving from one of a plurality of buyer's intelligent agents registered with a cooperative communications network a request to receive bids to sell a selected item specified from a list of individual product items and individual service items.

Applicant is attempting to distinguish the claimed invention over the prior art by making an argument regarding the merits of non-functional descriptive material. Specifically, the request for bids including a set of item parameters, said set including quality which is "mere arrangements or compilations of facts or data."

> Certain types of descriptive material, such as music, literature, art, photographs, and mere arrangements or compilations of facts or data, without any functional interrelationship is not a process, machine, manufacture, or composition of matter. See MPEP §2106.01, II.

Non-functional descriptive material is not given patentable weight.

In the discussion supra and the Office Action (6/02/06), Official Notice was taken that it was old and well-known to provide parameters for items such as price, quality or item features because parameters such as these are commonly used in commerce for product lists, order forms and search fields.

As documentary evidence, see:

Wellman, US Pat. No. 6,952,682- item parameters (see col. 3, line 65+ - col. 4, line 12; col. 4, lines 60-67; col. 5, line 60+ -col. 6, line 24;

Koopersmith, US Pub. No. 2001/0042002 – item parameters (see, [0023] [0111]).

Thus, it would have been obvious to modify the teachings of Moore supra to provide wherein the request for bids includes a set of item parameters, said set including quality.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.
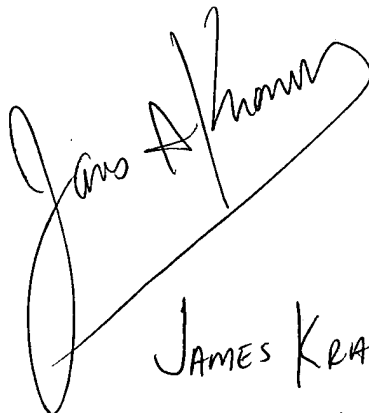
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sara Chandler whose telephone number is 571-272-1186. The examiner can normally be reached on 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on 571-272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SMC

James Kramer

1/17/07